



DEPARTMENT OF PUBLIC WORKS
TOWN OF DURHAM
100 STONE QUARRY DRIVE
DURHAM, NH 03824
(603)868-5578

Draft Small MS4 Stormwater Permit Public Hearing

January 28, 2009, Portsmouth, NH

Public Testimony From David Cedarholm, P.E., Town Engineer, Durham, NH

1. *Section 2.1 Water Quality Based Effluent Limitations* - requires the permit to "ensure that discharges from the MS4 do not cause or contribute to exceedance of water quality standards." And, *Section 2.2.2 Discharge to an Impaired water without an approved TMDL* - which requires the permittee to "evaluate discharges to impaired waters." And the later *Section 3.0 Outfall Monitoring Program*:

In the absence of a TMDL (which is typically the case in New Hampshire), these requirements will essentially require the communities to conduct their own TMDLs to comply, and will require municipalities to dramatically expand operation and established Stormwater Divisions if they haven't already done so.

- To what extent is the permittee required to "evaluate" the discharge?
- Are the parameters and acceptable methods defined?
- Will the evaluation need to be performed by a Professional Engineer or Geologist? And will the water quality monitoring need to be conducted by certified technicians? State Statute would appear to dictate so, and Consulting firms simply are not yet set up to do this!
- How is this to be funded if not through something like a Stormwater Utility?

Stormwater Utilities are the only statutory vehicle in New Hampshire that provides the local authority to charge existing private entities to help pay for extensive environmental investigations and rehab of infrastructure. Other available statutory authority exists within local Site Plan or Subdivision regulations, but it only pertains to new proposed development. Similar State Regulations such as Alteration of Terrain rules only applies to larger new developments. The idea of a Stormwater Utility is dramatic paradigm shift for small communities that are already struggling with out-of-control municipal budgets. To do the work needed to investigate how to fairly assess discharges and design a whole new enterprise fund will take considerably more than 1 year.

This puts a tremendous burden on a small community like Durham, New Hampshire with only 10,000 residents where only about half are within the MS4. It will also require the Town to establish a whole new division of engineers, environmental scientists and technicians, additional laborers and heavy equipment to expressly manage and maintain the stormwater system needs. To do so will take much more than a year and will likely increase the annual Department of Public Works budget by at least 25 percent.

- How much guidance and financial assistance are the EPA and NHDES prepared to offer to help small communities respond to these new mandates?

Section 2.2.3 Discharge to chloride impaired water - Requires private and public owners of parking lots and roads to annually report deicing salt use applied for each storm. Unless a Stormwater Utility is in place, municipalities don't have the authority to require private entities to provide reporting information.

- What mechanism will be put in place to ensure useful and accurate reporting?
- Will the EPA or NHDES provide criteria for how this information is to be consistently and accurately gathered and reported?
- How will the data be used?
- Has the EPA and NHDES evaluated the State of Minnesota guidance criteria (reference on Page page 12) for appropriateness in New Hampshire?
- Will the EPA and NHDES provide guidance or requirements relative to what chloride impairment corrective measure to implement?

Section 2.2.4 does not define "Increase in discharge" clearly, but it does defined a "new discharge".

- Is an increased discharge based on a specific rainfall frequency, rate or volume? A stormwater system may that is designed to manage a 25 year storm event will not as easily manage a 100 year or 500 year event.
- Does Section 2.2.4.c also pertain to increased discharges?
- Is the EPA or NHDES prepared to receive and respond to submissions from every proposed development regardless of size? This section essentially requires all developments to provide a design report for review by the EPA.
- Does Section 2.2.4.e require a 401 Water Quality Certificate for all developments?

Section 2.3 indicates that the "requirements" to reduce pollutants to the Maximum Extent Practicable (MEP) approach is an iterative process.

- This section is vague and lack actual requirements. Without specific requirements an iterative process implies a moving target of regulation.

Respectfully,



David Cedarholm, P.E.
Town Engineer
dcedarholm@ci.durham.nh.us